

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-1533WM

United States of America,

Appellee,

v.

Mario Cervantes-Moreno,

Appellant.

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* On Appeal from the United
* States District Court
* for the Western District
* of Missouri.

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* [Not To Be Published]

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Submitted: July 30, 2001

Filed: August 13, 2001

Before BYE, RICHARD S. ARNOLD, and BEAM, Circuit Judges.

PER CURIAM.

Mario Cervantes-Moreno pleaded guilty to reentering the United States illegally after previously having been convicted of an aggravated felony and deported, in violation of 8 U.S.C. § 1326(a) and (b)(2). The District Court¹ sentenced Cervantes-Moreno to 6 years and 5 months (seventy-seven months) imprisonment and 3 years supervised release, and he appeals. His counsel has filed a brief and has moved to

¹The Honorable Dean Whipple, Chief Judge, United States District Court for the Western District of Missouri.

withdraw pursuant to Anders v. California, 386 U.S. 738 (1967). Although we granted Cervantes-Moreno permission to file a pro se supplemental brief, he has not done so.

As part of his written plea agreement, Cervantes-Moreno waived the right to appeal sentencing issues to which he had stipulated, including his base offense level. We conclude that the waiver was knowing and voluntary: Cervantes-Moreno attended school through the tenth grade; he was not under the influence of drugs or alcohol at the change-of-plea hearing; his prior convictions indicated his experience with the criminal justice system; and he admitted he had read the plea agreement and discussed it with his attorney. See United States v. Michelsen, 141 F.3d 867, 871-72 (8th Cir.) (holding that appeal waiver is enforceable so long as it resulted from knowing and voluntary decision; examining personal characteristics of defendant and circumstances surrounding plea agreement), cert. denied, 525 U.S. 942 (1998); United States v. Greger, 98 F.3d 1080, 1081-82 (8th Cir. 1996) (so long as sentence is not in conflict with negotiated plea agreement, knowing and voluntary waiver of right to appeal from sentence will be enforced).

Accordingly, because we have found no meritorious issues that are not waived, we affirm. We also grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.